

80



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,865	10/25/2001	Stefan M. Pallazza	S63.2-9720	9976

490 7590 05/16/2005

VIDAS, ARRETT & STEINKRAUS, P.A.  
6109 BLUE CIRCLE DRIVE  
SUITE 2000  
MINNETONKA, MN 55343-9185

EXAMINER

NGUYEN, VI X

ART UNIT	PAPER NUMBER
----------	--------------

3731

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/682,865

**Applicant(s)**

PALLAZZA, STEFAN M.

**Examiner**

Victor X Nguyen

**Art Unit**

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12, 14, 22, 25, 26, 28, 29 and 64-67 is/are pending in the application.
- 4a) Of the above claim(s) 10, 13, 15, 20, 21, 24, 27 and 30-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12, 14, 22, 25, 26, 28, 29 and 64-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3731

**DETAILED ACTION**

**DETAILED ACTION**

1. The request filed on 4/1/2005 for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/682,865 is acceptable and a RCE has been established. An action on the RCE follows.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 11-12, 14,22,25-26,28-29 and 64-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Edwards et al (U.S. 6,123,712).

Edwards et al disclose in Figs. 7 and 8a, a device for configuring an inflatable balloon of a balloon catheter assembly having the limitations of the above listed claims, including: a body comprises a plurality of inflatable members (785,790) defining a channel. Each inflatable member has a balloon contacting portion. In fact, Edwards et al disclose in fig. 7 that the inflatable members are capable of inflating inward into the channel (see col. 20, lines 7-8) so as to reduce a cross section of the channel which extends perpendicular to a longitudinal axis of the channel. Edwards et al disclose a device [so as to reduce a cross section of the channel which extends perpendicular to a longitudinal axis of the channel]. The portion of the claim in brackets above indicates the intended use and all other functional statements have been carefully

Art Unit: 3731

considered but are deemed not to impose any structural limitations on the claims distinguishable over Edwards reference which is capable of being used as claimed if one desires to do so.

As to claims 2-6, 11-12,22 and 65-67, Edwards et al disclose the device comprises at least three inflatable members (fig.7). The inflatable members are tubular and have a circular cross section. The device further has a rigid tube (760). The tube has a first end with a first opening and a second end with a second opening that has a passage therethrough; and where the plurality of inflatable members are disposed in one spiral about the channel (figs.7 and 8a), where the balloon contacting portion is made of a compliant material and non-compliant materials such as latex, PET, Polyethylene or silicone (see col. 20, lines 60-62 and col. 22, lines 53-55), and where the body is disposed between first and second end supports, where the first and second end supports are joined by a plurality of connecting members that are spaced apart from the body (fig. 3g)

As to claims 7-9, Edwards et al disclose the device further comprises first end cap and second end caps. To the left side of element 29 can be characterized as the first end cap that has the first opening and further to the right side of element 23 in fig. 3f can be characterized as the second end cap disposed at the second end of the tube.

As to claims 25-26 and 28-29, Edwards et al disclose in Figs.7 and 8a, a method for configuring an inflatable balloon of a balloon catheter assembly having the limitations of claims 25-26 and 28-29, including: a body comprises a plurality of inflatable members (785,790) defining a channel. Each inflatable member has a balloon contacting portion. In fact, Edwards et al disclose in fig. 7 that the inflatable members are capable of inflating inward into the channel

Art Unit: 3731

so as to reduce a cross section of the channel which extends perpendicular to a longitudinal axis of the channel.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1,5,14,25,28 and 64 have been considered but they are not persuasive. Applicant is asked to please refer to the modified prior art rejection above where examiner addresses applicant's concerns regarding prior art rejections.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Victor X Nguyen  
Examiner  
Art Unit 3731

Vn Vn  
5/11/2005



**JULIAN W. WOO  
PRIMARY EXAMINER**